

UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Baxley

Mailed: January 13, 2003

Opposition No. 117,309

House of Blues Brands,  
Inc.

v.

Sylvia Woods, Inc.

**Andrew P. Baxley, Interlocutory Attorney:**

On November 14, 2002, the Board issued an order in which it allowed applicant until thirty days therefrom to show cause why judgment by default should not be entered against it based on its apparent loss of interest in this case.

On December 2, 2002, applicant filed a response which did not include proof of service upon opposer as required by Trademark Rule 2.119(a).<sup>1</sup> In the interest of moving this proceeding forward, however, the Board will consider the response.

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<sup>1</sup> The Board encloses a copy of applicant's response with opposer's copy of this order. Applicant is advised, however, that any further papers that are filed with the Board that do not include proof of service upon opposer will receive no consideration. See Trademark Rule 2.119(a).

Therein, applicant indicated that it can no longer afford an attorney and wishes to represent itself in this proceeding.

It is the policy of the Board to decide cases on their merits, where possible. Accordingly, the Board is reluctant to enter default judgments and tends to resolve any doubt on the matter in favor of defendants. Cf. TBMP Section 317.02. Inasmuch as applicant has expressed an interest in going forward *pro se* in this case, the Board finds that good cause exists to set aside the show cause order.

In view thereof, the order to show cause is hereby set aside.

Applicant's indication that it will represent itself in this proceeding is noted. Applicant should note that Trademark Rule 2.119(a) and (b) require that every paper filed in the Patent and Trademark Office in a proceeding before the Board must be served upon the attorney for the other party, or on the party if there is no attorney, and proof of such service must be made before the paper will be considered by the Board. Consequently, copies of all papers which applicant may subsequently file in this proceeding must be accompanied by a signed statement indicating the date and manner in which such service was made. The statement, whether attached to or appearing on the paper

when filed, will be accepted as prima facie proof of service.

It is recommended that applicant obtain a copy of the latest edition of Chapter 37 of the Code of Federal Regulations, which includes the Trademark Rules of Practice, and is available for a fee from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Strict compliance with the Trademark Rules of Practice and where applicable, the Federal Rules of Civil Procedure, is expected of all parties before the Board, whether or not they are represented by counsel.<sup>2</sup>

Opposer's brief on the case (filed January 28, 2002) is noted. Applicant is allowed until **thirty days** from the mailing date of this order to file its brief on the case.<sup>3</sup> Opposer is allowed until **forty-five days** from the mailing date of this order to file a reply brief. See Trademark Rule 2.128(a)(1); TBMP Section 801.

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<sup>2</sup> The Trademark Trial and Appeal Board Manual of Procedure (TBMP) (Stock No. 903-022-00000-1) is available for a fee from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. (Telephone (202) 512-1800)). The TBMP is also available online at <http://www.uspto.gov>.

<sup>3</sup> The filing of a brief on the case is not mandatory for applicant, however. See TBMP Section 801.02(b).